United Nations A/64/314

General Assembly

Distr.: General
20 August 2009

Original: English

Sixty-fourth session
Item 138 of the provisional agenda*
Administration of justice at the United Nations

Activities of the Office of the United Nations Ombudsman and Mediation Services

Report of the Secretary-General

Summary

The General Assembly, in its resolution 59/283 on administration of justice at the United Nations, having stressed the importance of the Office of the Ombudsman as a primary means of informal dispute resolution, requested the Secretary-General to submit, in the context of his annual report on the administration of justice in the Secretariat, information on the activities of the Ombudsman, including general statistical information and information on trends, and comments on policies, procedures and practices that had come to the attention of the Ombudsman.

In its resolution 62/228 on administration of justice at the United Nations, the General Assembly reiterated its decision to create a single integrated and decentralized Office of the Ombudsman for the United Nations Secretariat, funds and programmes as from 1 January 2008. The Assembly further urged the Office of the United Nations Ombudsman, the Office of the Joint Ombudsperson of the United Nations Development Programme, the United Nations Population Fund, the United Nations Children's Fund and the United Nations Office for Project Services and the Office of the Mediator (since retitled Ombudsman) of the Office of the United Nations High Commissioner for Refugees to strengthen the ongoing efforts for coordination and harmonization of standards, operating guidelines, reporting categories and databases. The present report is the first joint report for the entities covered by the integrated Office of the Ombudsman, now known as the Office of the United Nations Ombudsman and Mediation Services, and covers the period from 1 January to 31 December 2008.

* A/64/150.

09-48892 (E) 240909

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I. Introduction

1. This is the fifth report of the Secretary-General to the General Assembly on the activities of the United Nations Ombudsman. In paragraph 22 of its resolution 59/283, the Assembly requested the Secretary-General to submit, in the context of his annual report on the administration of justice in the Secretariat, information on the activities of the Ombudsman, including general statistical information and information on trends, and comments on policies, procedures and practices that had come to the attention of the Ombudsman.

2. The Office of the Ombudsman has taken a number of steps to implement the new reformed informal system of justice, as set out in General Assembly resolution 62/228, including the establishment of a single integrated and decentralized office to serve the Secretariat, the United Nations funds and programmes (the United Nations Development Programme, the United Nations Population Fund, the United Nations Children's Fund and the United Nations Office for Project Services) and the Office of the United Nations High Commissioner for Refugees (UNHCR), a Mediation Division to provide formal mediation services and regional branch offices. In its resolution 63/253, the Assembly welcomed the intention of the Secretary-General to issue a joint report in 2009 for the entities covered by the integrated Office of the Ombudsman.

3. The present report is the first joint report for the entities covered by the integrated Office of the Ombudsman, called the Office of the United Nations Ombudsman and Mediation Services. The new name will be reflected in the revised terms of reference for the integrated Office, which will be promulgated in a Secretary-General's bulletin during the sixty-fourth session of the General Assembly.

4. The report is a first attempt at providing an overview of the operations of the integrated Office, including consolidated statistical information and systemic and cross-cutting issues brought to the attention of the Office, together with related recommendations. In the present report, data are presented across the entire Organization wherever common data elements were available. During 2008, the Secretariat used a case categorization schema that was different from that used by United Nations funds and programmes and UNHCR. As from 1 January 2009, the integrated Office intends to continue to migrate to a common methodology for collecting case data. The joint data collection will provide greater opportunities in future reports to analyse and compare data and identify interventions that will benefit the entire system.

5. The present report covers the operations of the integrated Office for the period from 1 January to 31 December 2008. Previously, the Secretariat, the funds and programmes and UNHCR had different reporting cycles and the United Nations Ombudsman reported to the General Assembly only on cases brought to the Office from the Secretariat. The reporting period was accordingly aligned so that a report of the Ombudsman's activities for the new consolidated office could be produced. The Office will continue to report to the Assembly and the entities covered by the integrated Office regarding its activities.[1]

[1] The previous Secretariat report is contained in document A/63/283. The Ombudsman for the funds and programmes and the Ombudsman for UNHCR issued separate annual reports for 2008.

II. Office of the United Nations Ombudsman and Mediation Services

A. Ombudsman services

6. The Office of the United Nations Ombudsman and Mediation Services was established pursuant to General Assembly resolution 62/228 to provide an impartial, independent and informal conflict resolution mechanism for the settlement of work-related problems for staff and related personnel in the Secretariat, the funds and programmes and UNHCR. The regional branch offices of the Office will be based in Bangkok, Geneva, Khartoum, Kinshasa, Nairobi, Santiago and Vienna and will provide similar services to staff and related personnel based in the various regions.

1. Working principles

7. As a strong informal pillar of the system of administration of justice, the Office of the United Nations Ombudsman and Mediation Services takes informal and collaborative approaches to resolving conflict at an early stage. The Office continues to be guided by the core principles of independence, neutrality, confidentiality and informality. An Ombudsman advocates for justice and fair, equitably administered processes, and does not advocate on behalf of any individual within the Organization. As a designated neutral party, an Ombudsman is required to maintain strict confidentiality concerning matters that are brought to his or her attention. The Office does not keep records for the United Nations or any other party and does not disclose information about individual cases or visits from staff members. The Office cannot be compelled by any United Nations organ or official to testify about concerns that are brought to its attention; nor does it conduct formal investigations or accept legal notice on behalf of the United Nations. An Ombudsman does not have decision-making powers. She or he cannot make determinant findings or judgements. She or he advises and makes informal suggestions or recommendations, as appropriate, on actions needed to settle conflicts or prevent recurrence. The Ombudsman takes into account the rights and obligations existing between the Organization and the staff member, and the equity of the situation.

2. Access to the Secretary-General

8. The United Nations Ombudsman serves as the head of the Integrated Office and has direct access to the Secretary-General as needed for the performance of his or her functions. She or he also raises relevant issues with management and staff, when appropriate, to facilitate conflict resolution and makes recommendations for changes in policies and practices. Similarly, the Ombudsmen for the funds and programmes and UNHCR have direct access to the executive heads of their respective entities.

3. Office harmonization

9. The process to create the integrated and harmonized Office of the Ombudsman began in 2008. Concerted efforts were made to build synergies and harmonize practices throughout the year. An important initiative towards harmonization — and a first for the integrated Office — was the holding of a retreat for ombudsman staff

from the Secretariat, funds, programmes and UNHCR in September 2008. The retreat consisted of three components: (a) team-building and working collaboratively; (b) skill-building, e.g. case and conflict analysis and conflict resolution; and (c) building administrative systems. The teams shared best practices and identified opportunities to enable effective integration. There was a consensus that there should be follow-up retreats to ensure harmonization of the integrated Office, especially as the regional branch offices and Mediation Division were established, and to continue professional development.

B. Mediation services

10. The Mediation Division, which is part of the spectrum of services offered by the integrated Office and which operates under the authority of, and reports to, the United Nations Ombudsman, provides mediation services for the Secretariat, funds, programmes and UNHCR. The Division will handle cases requested by the parties and the United Nations Dispute Tribunal, among others.

11. It is expected that mediation, as a neutral, voluntary and confidential process, will help parties in conflict to identify and understand issues and interests, explore options and generate solutions to which all parties agree, drafting agreements when requested.

12. The Mediation Division is in the process of developing its own guidelines and standard operating procedures following extensive consultation with key stakeholders in the administration of justice system. These procedures will be posted on the Office website.

13. The integrated Office is in the process of establishing a roster of mediators who will provide dispute resolution services as may be required. The roster will eventually be extended to serve the regional branch offices.

III. Statistical information on cases and issues

14. One of the main goals of the Office of the United Nations Ombudsman and Mediation Services is to identify systemic workplace problems, analyse their root causes and identify opportunities to prevent them from recurring. To help accomplish this main objective, the Office analyses the number and related trends of cases brought to the integrated Office, the originating unit or area from which the cases arise, the demographics of those who brought the cases, the types of issue they relate to and the types of issue by location. The following data relate to these factors.

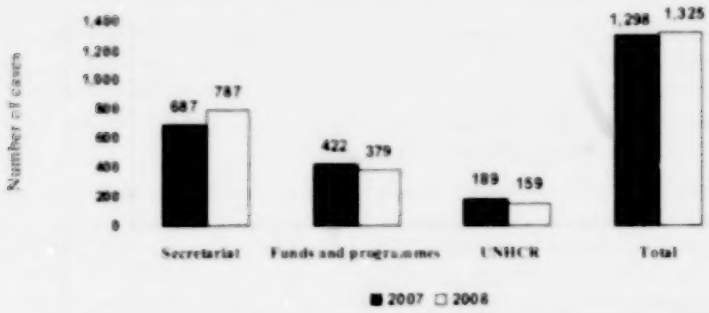
A. Case volume

1. Consolidated

15. The number of cases brought to the integrated Office during 2008 rose by 2.1 per cent from the previous year (figure 1). The figures for 2008 reflect only cases opened in 2008 and do not include cases carried over from previous reporting cycles. Despite significant outreach efforts, not all United Nations staff are aware of

the work and activities of the Ombudsman. For example, locally recruited staff in peacekeeping operations and individual contractors serving in remote regions have limited access to information about the Office and to its services. In general, visitors prefer to meet with someone they can interact with regularly. Thus it is anticipated that the establishment of seven regional branch offices and the Mediation Division will provide easier access, thereby enhancing the service provided.

Figure I
Number of cases opened, 2007 and 2008



2. Secretariat

16. Each year since the inception of the Office of the Ombudsman, the case volume has increased steadily. The number of cases has almost doubled from 410 cases in 2003, the first full year of operations, to 787 in 2008. From 2007 to 2008, the number of cases increased by 14.6 per cent. Two factors could explain the increase in case volume. Firstly, the staff population increased from 2007 to 2008 by 8 per cent (see A/63/310), mostly in peacekeeping missions, and secondly, awareness about the services provided by the Ombudsman increased.

3. Funds and programmes

17. In the Office of the Joint Ombudsperson, over the past five years the case volume has increased by 52 per cent, from 249 in 2003 to 379 in 2008. However, there were slightly fewer new cases in 2008 compared with 2007. Reduced staffing in the Office affected the ability to respond more promptly to cases and to visit as many field locations as planned. The Office handled 446 cases during 2008, including cases opened in prior periods.

4. Office of the United Nations High Commissioner for Refugees

18. At the Ombudsman Office for UNHCR, case volume has doubled over the past five years, from 80 in 2003 to 159 in 2008. During 2008, 159 individuals and groups brought cases to the Office, while the Ombudsman continued working with 52 staff members whose concerns had not been fully resolved during the previous year. During the year, the Office thus handled 211 cases. Two thirds of cases opened in 2008 were closed during the course of the year, even though the rate at which staff members approached the Office doubled in the second half of 2008.

B. Demographics

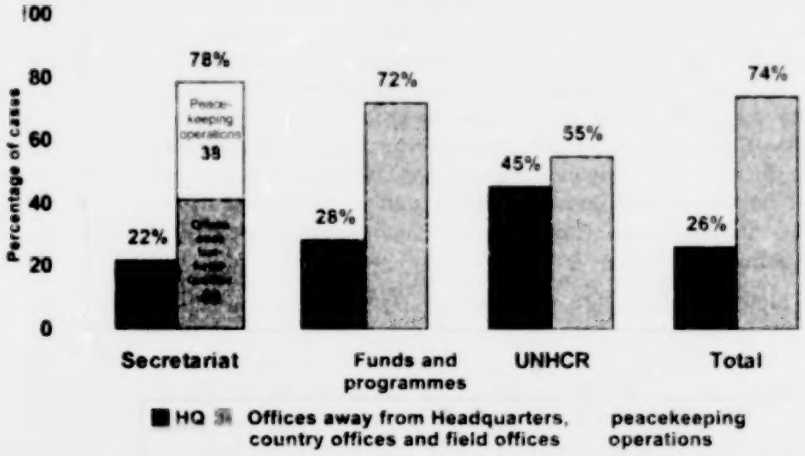
Location

1. Consolidated

19. The majority of staff who utilized the services of the integrated Office came from country offices, field offices and peacekeeping operations (see figure 2). This distribution of cases reflects the distribution of the workforce, which is largely field-based.

Figure 2

Percentage of cases from headquarters compared with offices away from headquarters, peacekeeping missions, country offices and field offices, 2008



2. Secretariat

20. The percentage of visitors from New York Headquarters decreased from 29 per cent of the total cases in 2007 to 22 per cent in 2008. However, the percentage of Headquarters staff who used the Office was larger than the percentage of staff from other locations.

21. Visitors from offices away from New York Headquarters increased from 36 per cent in 2007 to 40 per cent in 2008. The increase was due to outreach efforts. During 2008, the Ombudsman and/or staff from his Office visited the United Nations Offices at Geneva, Nairobi and Vienna. Utilization of services may continue to increase with the development of the seven regional branch offices.

22. In 2008, the percentage of visitors in peacekeeping operations was higher (38 per cent) than the previous year (35 per cent), partly as a result of visits to three peacekeeping operations in 2008, namely: the United Nations Integrated Mission in Timor-Leste (UNMIT), the United Nations Operation in Côte d'Ivoire (UNOCI) and the United Nations Interim Administration Mission in Kosovo (UNMIK). The establishment of regional branch offices in Kinshasa and Khartoum will likely further increase the percentage of visitors.

3. Funds and programmes

23. In 2008, 72 per cent of all cases handled by the Office were brought by country office staff; this roughly represents the reality of the workforce, which has a large majority of field-based staff. The funds and programmes Ombudsman office conducted five country office missions in 2008, covering three regions. A higher level of accessibility for country office staff would have been desirable but was not possible given the limited staffing complement. Although there were slightly more country office cases in 2008 as compared with 2007, the number is still down by 10 per cent compared with 2006, a year when the office was fully staffed.

4. Office of the United Nations High Commissioner for Refugees

24. The number of national staff members from the field, and particularly the "deep field", who contact the office remains low in proportion to their representation in the total number of UNHCR staff. It is recommended to revitalize and expand in the coming years the network of Respectful Workplace Advisers. The United Nations Respectful Workplace Advisers pilot was modelled after the World Bank's well-established and successful model. Respectful Workplace Advisers are selected by their colleagues and receive specific training. They are situated in offices in the field. They help staff to better understand options available to them to address conflict and they promote early solutions close to the source of the problem. Respectful Workplace Advisers also inform staff of recourse to services that can guide them (Ombudsman, Ethics Office, human resources offices, Inspector General's Office, etc.).

25. The high percentage (45 per cent) of UNHCR headquarters (Geneva and Budapest Service Centre) visitors compared with previous years (37 per cent from May 2005 to November 2007) can be explained by several factors. Firstly, the Ombudsman's focus on, and two visits to, the new Budapest Service Centre, which forms part of UNHCR headquarters. Secondly, the increased volume of issues from some Geneva headquarters work units following structural changes. Thirdly, the postponement of some planned field missions by ombudsmen to 2009. Many field staff take advantage of these missions to speak confidentially with an ombudsman.

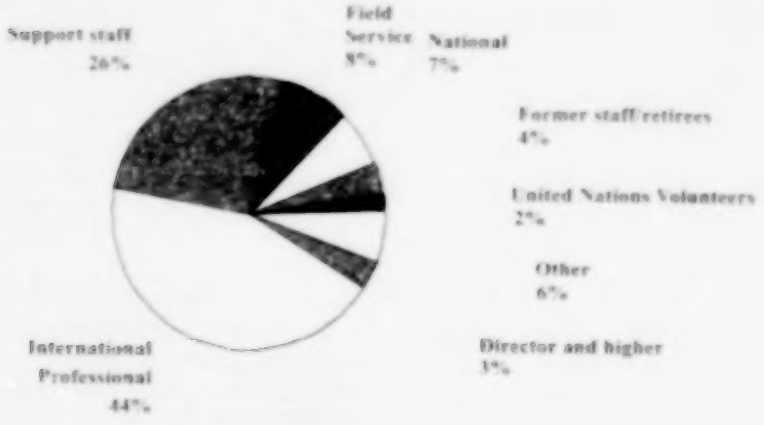
Job category

1. Consolidated

26. Of the visitors to the Integrated Office, 47 per cent came from the combined ranks of international Professional and higher categories in 2008. Figure 3 below represents a breakdown by occupational group of the visitors to the integrated Office in 2008. Data from all three components of the integrated Office are represented as follows: staff members in the Professional and higher categories; international Professional staff; support staff (General Service, Security and Trades and Crafts); national staff (Professional and support staff); and others (including consultants, contractors, military personnel and interns). The Secretariat and the funds and programmes also had cases from visitors who were United Nations Volunteers, former staff and retirees. Lastly, the Secretariat received cases from staff in the Field Service category. From these combined cases shown in figure 3, the largest segment (47 per cent) of visitors to the integrated Office came from the ranks of international Professional staff, directors and above in 2008.

Figure 3

Percentage of visitors by occupational group for consolidated Office of the United Nations Ombudsman and Mediation Services, 2008



2. Secretariat

27. The percentage of visitors at the level of Director and above increased from 1.9 per cent in 2007 to 3.2 per cent in 2008. This increase shows that senior managers have become more aware about the services provided by the Office and/or have more confidence in its potential to help resolve conflict. International Professionals continued to be the largest category of visitors to the Office. Although international Professionals constitute 26 per cent of the workforce in the Secretariat (see A/63/310), 43 per cent of all visitors were from this category in 2008, as they were in 2007. Every year, since the inception of the Office of the Ombudsman in 2002, the majority of visitors have been international Professional staff. Twenty-four per cent of visitors belonged to the support staff category (including General Service, Trade and Crafts and Security) and 13 per cent of visitors were from the Field Service category in 2008. Locally recruited staff members in peacekeeping operations were very much underrepresented among the visitors to the Office of the Ombudsman, representing only 4 per cent of the total number of cases. The establishment of regional branch offices in Kinshasa and Khartoum will likely facilitate access to the Ombudsman by local staff. Eight per cent of cases in 2008 were brought by non-staff personnel, which include consultants, individual contractors, interns, volunteers, military and others.

3. Funds and programmes

28. Of the visitors from the funds and programmes in 2008, 46 per cent were international Professional staff; 26 per cent were support staff and 12 per cent were national Professional staff. As noted in paragraph 24 of the present report, there is a need for more ombudsman services to be readily accessible locally in order for local and support staff to feel more encouraged to come forward with issues that may otherwise be left unattended.

4. Office of the United Nations High Commissioner for Refugees

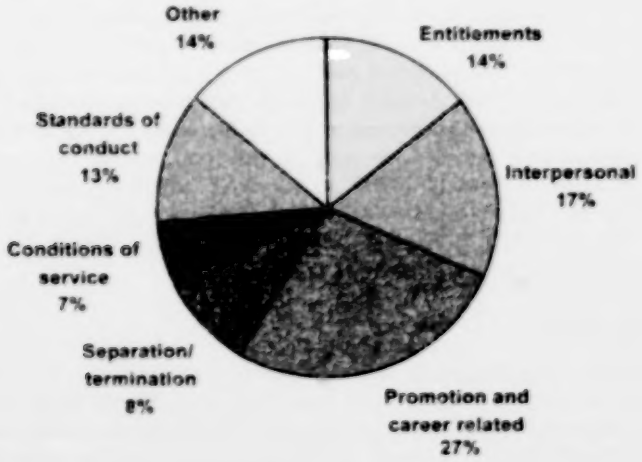
29. The continuing willingness of many senior managers in the field and headquarters to approach the Ombudsman of UNHCR or urge staff members under their supervision to approach the Office reflects managers' acknowledgement that an approach to the Ombudsman is not a sign of weakness, failure or disloyalty. This is an important departure from the managerial attitudes faced when the Office was first established. Five per cent of visitors were at the Director level, while 50 per cent were at the international and national Professional officer level, and 34 per cent were at the support staff level.

C. Types of issue

1. Consolidated

30. The types and number of issues brought to the integrated Office help to identify systemic concerns and problems that need to be addressed by the Organization (see also sect. IV). Career-related issues formed the largest number of cases from the Secretariat, the funds and programmes and UNHCR (see figure 4). The second highest volume of cases related to managerial and interpersonal issues. During 2008, the issue categorization schema used by the Office of the Ombudsman in the Secretariat differed from that used by its counterparts in the funds and programmes and UNHCR, thereby limiting the ability to compare issues across the integrated constituency. In 2009, a common schema will be used across the entire integrated Office. The 2009 schema will be similar to those being used by other ombudsmen and mediators in related international organizations and the International Ombudsman Association.

Figure 4
Types of issue raised at the Secretariat, 2008



1. Secretariat

(a) Promotion and career issues

31. Promotion and career issues have consistently remained the most important category and include grade at entry, special post allowance, posting, job classification, promotion opportunities, conversion to fixed-term or permanent contracts and the performance appraisal system.

(b) Interpersonal issues

32. The second largest category, interpersonal issues, includes conflicts between colleagues and between supervisors and staff. In addition to ombudsman services, mediation provided by the Office has been a useful tool to resolve issues between co-workers.

(c) Entitlement issues

33. A greater number of issues relating to entitlements were raised in 2008 (102) than in 2007 (87). The increasing number of cases from peacekeeping operations, where staff may not always be aware of their entitlements, could explain this evolution. Of the 102 entitlement cases brought forward, 54 were raised by peacekeeping personnel.

(d) Standards of conduct issues

34. There were a greater number of cases involving standards of conduct in 2008 (89 issues) than in 2007 (65 issues); this may be connected to the issuance of the Secretary-General's bulletin on the prohibition of discrimination, harassment and abuse of authority (ST/SGB/2008/5), which increased awareness of the policy and processes to address such issues.

Figure 5
Types of issues raised at the United Nations funds and programmes, 2008

Values, ethics and standards of conduct 6%
Compensation and benefits 10%
Evaluative relationships 26%
Organizational, strategic and mission 8%
Services/ administration 6%
Colleague relationships 2%
Safety, health, well-being, and physical environment 3%
Legal, regulatory, financial and compliance 11%
Career progression and development 28%

2. Funds and programmes

(a) Career progression and development

35. The largest number of cases brought to the attention of the Ombudsman for the United Nations funds and programmes concerned issues pertaining to jobs and career; which are major sources of frustration and conflict for staff at all levels (see figure 5). Inadequate coaching and mentoring, questionable promotion procedures, difficulties of inter-agency mobility, faulty recruitment, lack of opportunities for career progression, selection processes and contractual issues contribute to the problems in this area.

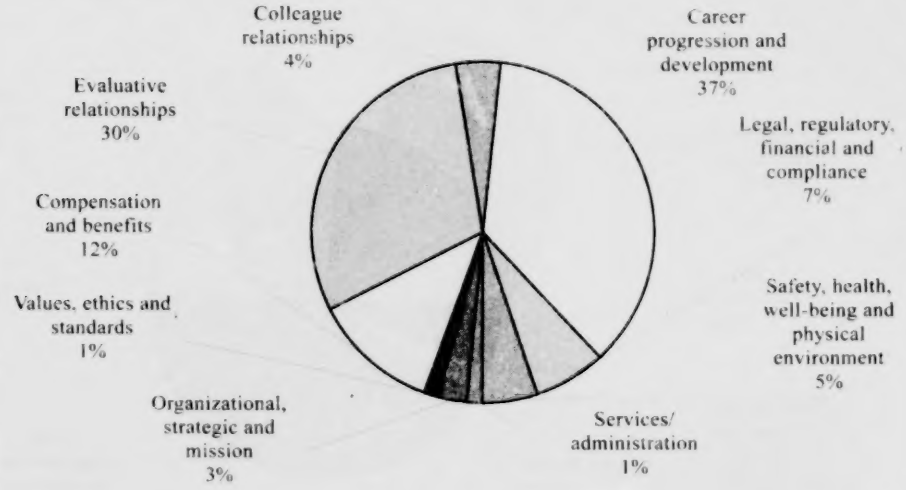
(b) Evaluative relationships

36. The evaluative relationships category at the United Nations funds and programmes refers to issues between colleagues with supervisory relationships. Examples of issues in this category relate to respect, treatment, communications, team climate, morale and performance management and appraisal. There was an upward trend in the number of evaluative relationship cases, from 20 per cent in 2007 to 26 per cent in 2008. A new way of reporting on abuse of authority, which is now statistically incorporated into the evaluative relationships category, partly accounts for the increase.

(c) Legal, regulatory, financial and compliance

37. Matters pertaining to financial, legal and disciplinary issues, which include harassment, waste, fraud, abuse of funds and investigative processes, amounted to 11 per cent of the total number of issues and represent the third largest category of cases in 2008 at the United Nations funds and programmes.

Figure 6
Types of issues raised at the Office of the United Nations High Commissioner for Refugees, 2008


Colleague relationships 4%
Career progression and development 37%
Evaluative relationships 30%
Legal, regulatory, financial and compliance 7%
Compensation and benefits 12%
Safety, health, well-being and physical environment 5%
Values, ethics and standards 1%
Organizational, strategic and mission 3%
Services/ administration 1%

3. Office of the United Nations High Commissioner for Refugees

(a) Career progression and development

38. Thirty-seven per cent of the visitors raised concerns related to their jobs and careers, with many facing abolition of their post, non-renewal of their contract or termination (see figure 6). Others complained of involuntary transfers or changes of assignment, or a delay or denial of a promotion.

(b) Evaluative relationships

39. Thirty per cent of the visitors complained about evaluative (supervisory) relationships and felt that they had received unfair treatment from their supervisors. Many of these visitors also registered career-related concerns, relating to performance appraisal, bullying, a negative departmental climate, lack of respect, abuse of authority and supervisory ineffectiveness. There were also complaints of retaliation by supervisors; these occurred before the establishment of the Ethics Office, which has a special role in this regard.

(c) Compensation and benefits

40. Twelve per cent of staff members raised concerns about issues of compensation and benefits, with the main concerns focusing on separation entitlements, leave entitlements, dependency benefits and official travel. Other significant concerns raised by staff included safety, health, well-being, stress, work-life balance and harassment, including sexual harassment.

D. Issues by location

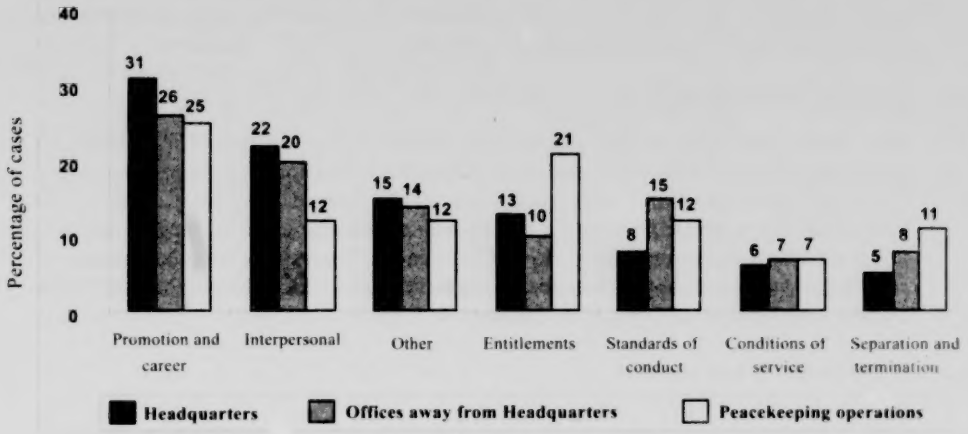
41. Figure 7 shows a breakdown of issues raised by staff of the Secretariat in 2008.

1. Consolidated

42. Promotion and career-related issues and evaluative relationships continue to represent the highest number of cases in all locations.

2. Secretariat

Figure 7
Issues by location: Secretariat, 2008



Headquarters

43. The relatively high proportion of promotion, career and interpersonal issues at the Secretariat Headquarters in New York may indicate a competitive work environment where relations between supervisors and supervisees or between peers are relatively tense.

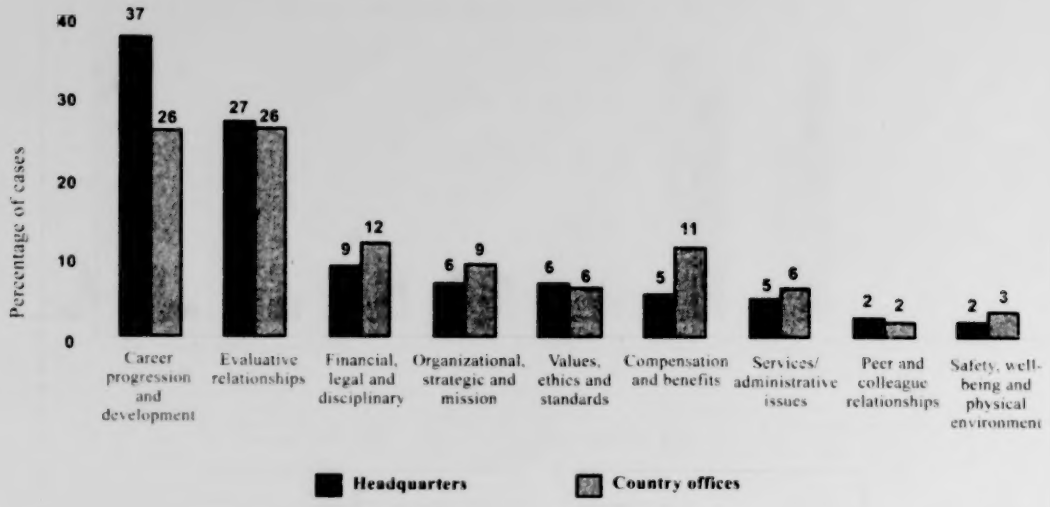
Peacekeeping

44. Due to the temporary nature of mission service, visitors located in peacekeeping missions had somewhat different concerns; they had proportionally more separation and termination issues (11 per cent) than the rest of the visitors (8 per cent at offices away from Headquarters and 5 per cent at New York Headquarters). Peacekeeping staff also had more entitlement issues (21 per cent) than visitors from New York (13 per cent) or offices away from Headquarters (10 per cent). This was most likely because of a relative lack of knowledge on the part of staff about these entitlements and by the delays in processing entitlement requests.

Offices away from Headquarters

45. Visitors located at offices away from Headquarters brought to the attention of the Ombudsman more issues related to violation of the standards of conduct of the international civil service (15 per cent) than the rest of the visitors (8 per cent at Headquarters and 12 per cent in peacekeeping operations). Smaller and isolated professional settings appear to be conducive to situations of bullying or mobbing; therefore a higher percentage of visitors from these offices report harassment or discrimination.

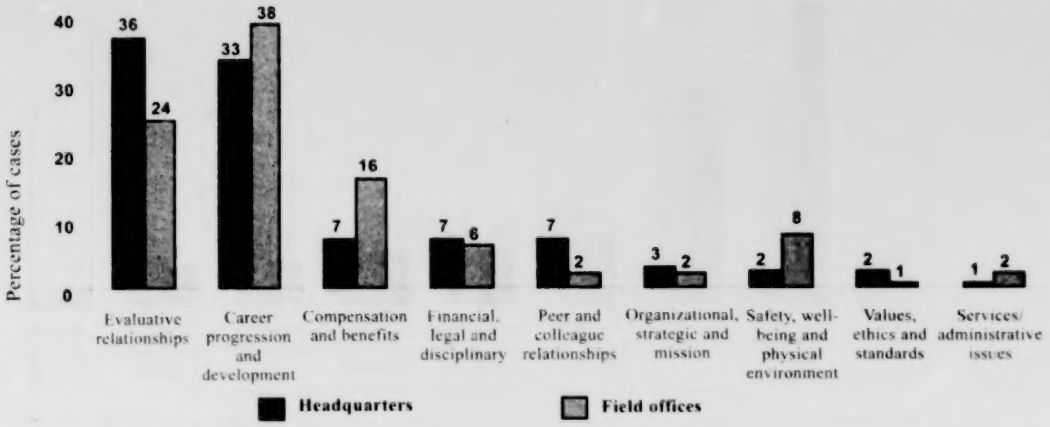
Figure 8
Issues by location: funds and programmes, 2008



3. Funds and programmes

46. Issues related to jobs and careers form the largest percentage of concerns raised by visitors both in country offices (26 per cent) and at the headquarters of the United Nations funds and programmes (37 per cent) (see figure 8). However, visitors from country offices raised almost as many issues relating to evaluative relationships (26 per cent) and also had a higher percentage of issues pertaining to compensation and benefits compared with their colleagues at headquarters (11 per cent versus 5 per cent). Further analysis of issues related to jobs and careers shows that headquarters staff and country office staff differ in the types of issues they raise. For example, concerns from country offices relate mainly to job retention, termination and non-renewal of contracts (double that at headquarters) for a number of stated reasons, including contractual modality and, in particular, the use of service contracts in the field. At headquarters, career development is impeded not only by termination and non-renewal of contract but also by a number of other factors such as job-selection and recruitment processes, terms and conditions of contract and delay and denial of promotion.

Figure 9
Types of issues by location: Office of the United Nations High Commissioner for Refugees, 2008



4. Office of the United Nations High Commissioner for Refugees

47. The disproportionately high percentage of interpersonal difficulties (evaluative and peer relations) emanating from UNHCR headquarters (43 per cent) compared with the field (26 per cent) has to do with: (a) certain units at headquarters that had high levels of interpersonal tensions and difficult relations between managers and staff; (b) reduced morale in headquarters owing to out-posting and other structural changes; and (c) easier access to and greater familiarity with the Ombudsman's office of staff at headquarters (see figure 9).

48. Issues where higher percentages of cases emanated from the field compared with headquarters related to jobs and careers (38 per cent versus 33 per cent) and compensation and benefits (16 per cent versus 7 per cent). This reflects the more precarious career and contractual situation of both international and national staff in the field, who are affected by loss of employment at the end of fixed-term assignments in the deep field and the downsizing and restructuring of field offices as operational needs change. Staff in the field also tend to have relatively limited knowledge of their entitlements compared with staff at headquarters and have more difficulty getting answers about these from their managers and from headquarters, which is far away.

E. Types of services provided

Figure 10
Actions taken by Ombudsmen of the integrated Office, 2008

49. Ombudsmen perform a wide variety of actions in the course of working with staff members on their cases (see figure 10). Ombudsmen's actions are informal and include listening, providing and receiving information, identifying and reframing issues, helping visitors to develop and evaluate a range of responsible options, undertaking informal fact-finding, and (with the visitor's permission and at the discretion of the Ombudsman) engaging in informal third-party intervention or mediation. In addition, the Office helps staff to identify the appropriate United Nations office or unit to which they can bring their issue for resolution. The primary objective in settling conflicts is to advance fair and equitable solutions to problems and to improve the workplace environment; however, informal conflict resolution may also reduce recourse to the formal grievance process. The Office does not replace any other organizational entity, but collaborates, with the visitor's permission, with other offices and services to resolve work-related concerns and conflicts.

IV. Systemic issues

A. Source and context

1. Issue identification and reporting

50. The Office continues to attach great importance to its roles in identifying, analysing and reporting on broad systemic issues and in making recommendations to improve policies, procedures, systems or structures that can address and prevent issues from recurring.

2. Addressing issues

51. In paragraph 32 of its resolution 62/228, the General Assembly requested the Secretary-General to report to it at its sixty-third session, in the context of human resources management, on specific measures taken to address systemic issues. In his report on measures taken to address seven systemic human resources issues raised in the context of the reform of the internal system of administration of justice (A/63/132), the Secretary-General provided feedback to the Assembly on his response to the recommendations of the Ombudsman contained in document A/62/311. In paragraph 25 of its resolution 63/253, the General Assembly again requested the Secretary-General to report to it, at its sixty-fifth session, on specific measures taken to address systemic issues in the context of human resources management.

3. Integration of the United Nations ombudsman offices

52. The integrated Office has a global view of the systemic issues in the Secretariat, the funds and programmes and UNHCR. The integrated Office has introduced regular case and systemic issue debriefings to facilitate the detection of any organization-wide procedures, practices or rules that may be generating common concerns among staff. Additionally, the Office is creating a uniform case categorization process that ensures consistency and enhances analysis of root causes and trends.

4. Regional branch offices

53. The regional branch offices will facilitate access to ombudsman services for people serving outside headquarters. They will also provide important information on systemic issues from the field perspective.

5. Delivering as one United Nations

54. Drawing on new opportunities generated by its expanded reach, the integrated Office will help foster positive systemic change and encourage the adoption of common practices and policies system-wide, thus promoting the vision of "Delivering as one".

B. Issues identified over the reporting period in the Secretariat, the funds and programmes and the Office of the United Nations High Commissioner for Refugees

55. For the purpose of the present report, which covers the period January to December 2008, the Office has selected the following systemic issues, which have been identified as being inherent across all the entities it serves unless otherwise noted.

1. Career progression and development

56. Concerns related to career progression and development continue to account for the largest number of cases brought to the attention of the integrated Office. Career progression and development are critical to effective talent management and building institutional capacity for United Nations entities. The failure to enable staff

to have successful and rewarding careers jeopardizes the Organization's ability to retain good staff and to ensure that the right staff are in the right positions. Listed below are key systemic issues that could have an impact on the Organization's ability to attract, retain and effectively engage high performing staff.

(a) Performance management

57. Staff report that some managers continue to neglect to provide regular feedback, conduct periodic performance reviews or follow the appraisal procedures. Cases received relate to the improper use of the appraisal system as a management tool for evaluating performance. Staff in some instances perceive that the evaluation system is used as a tool to punish the staff member; they believe it is based on interpersonal problems with the manager rather than their actual performance. Managerial indifference to setting clear work objectives at the outset of the appraisal period and absence of feedback on performance during the appraisal period undermine the usefulness of the process. Staff also report that evaluations are often vague and do not contain specific, constructive feedback that enable them to draw clear conclusions about their capabilities, training requirements and career development prospects. Ineffective performance management negatively affects both goal achievement under existing workplans and future career progress.

58. Timely and quality performance management and reports need to be key indicators of managerial effectiveness. It is important that management have a process to monitor and review the application of the performance management system. Such a process can help hold all managers accountable for the quality of performance evaluations and the need for feedback to ensure that such evaluations are timely, specific and constructive and are based on goals and deliverables. In the funds and programmes particularly, it is recommended that any committees reviewing evaluations, especially at the country level, strive for neutrality.

59. In the Secretariat, it has been noted that performance management is included as an indicator in the Secretary-General's compact with the heads of departments. The integrated Office recommends that the staff performance appraisal system component of this initiative could be further strengthened if added focus is placed on quality of performance evaluation and feedback, in addition to compliance with the completion of the process.

(b) Recruitment and selection

60. Staff at different levels report that there can be long delays in the recruitment process, which can hinder operational efficiencies. Some staff applying for positions in peacekeeping operations have approached the Office for assistance with initial and technical clearance. The Office also received reports of instances where the finalization of a decision for movement to the higher level for field positions had lasted up to three years. Since organizational practice is that other missions may not consider for recruitment candidates who have already been selected for such positions, the staff concerned had to wait until a final decision was taken on their movement to the higher level before they could apply and be considered for other positions, thus seriously compromising their career progression. Additionally, the Office received cases from individuals who felt that the recruitment and selection processes lacked rigor and were not transparent.

61. Regarding field positions, the Office proposes that the Department of Field Support undertake a comprehensive review of the processes for clearance and requests for movement to a higher level to identify where the bottlenecks may exist and to find ways to shorten the process.

62. It is important to consider ways to ensure fair, transparent and expeditious recruitment processes for staff. The Office recognizes the added value and supports the core functions of the appointment and promotion machinery and the central review bodies, which ensure the fairness and integrity of recruitment processes. Some managers have noted, however, that after going through lengthy interview processes, they are required to interview additional candidates, often necessitating a resumption of the interview process. The Office recognizes that the new talent management system, which is expected to be implemented in the Secretariat in 2009 and beyond, may address some of the issues pertaining to staff selection, including how candidates should be pre-screened and short-listed and how panels should be constituted and interviews conducted. In addition to these and other efforts that may be envisaged throughout the system, the Office further recommends that a procedure or mechanism be put in place to provide managers with advice on additional candidates to be interviewed at the onset of the process rather than after the interviews have been concluded and the cases submitted to the central review bodies for consideration.

(c) Official status files

63. A number of staff in the Secretariat and the funds and programmes have expressed concerns regarding the reported misuse of official status files. These concerns take various forms. Staff members report documents in their files that have been filed without their knowledge in contravention of existing organizational policies. Also, at times, adverse information is said to have been stored in electronic records such as human resources databases without the knowledge of the staff member or without the staff member being provided with the opportunity to refute the information; such information might be used later to exclude them from being considered for positions. In addition, staff have reported delays in accessing their files and lack of updated data contained in them.

64. To resolve the problem of accessibility and transparency, the Organization could look into best practices in other organizations and make efforts to identify where the bottlenecks exist and how to streamline the system. It is proposed that the option of keeping official status files electronically be explored. Such an option would allow staff members secured access to their staff files through the United Nations Intranets.

(d) Contract management

65. It is anticipated that the contractual reform currently under way will help to address the plethora of contractual modalities that have existed. Nevertheless, for the reporting period some issues brought to the Office relate to arbitrary non-renewal of contracts and poor management of contracts. Managerial accountability is needed to effectively manage contracts. For example, there have been cases where conduct and performance met expectations but contracts were not renewed even when funding was available and the need for the services continued. Perceived arbitrary decisions on renewals can deter talented staff from continuing to

develop careers with the various organizations. UNOMS recommends that management review the ways in which contracts are managed to ensure that the highest ethical employment standards are met.

2. Leadership and managerial effectiveness

(a) Abuse of power

66. Statistics on cases from the integrated Office's constituency identify abuse of power as the most prevalent form of reported harassment in the Organization.

67. Reported abuses include the use of inappropriate language and other unprofessional means of addressing subordinates in a United Nations workplace environment, withholding and threatening to withhold contract renewals, requesting staff to perform functions unrelated to official duties, using office restructuring to make staff redundant and other forms of abuse that often go unaddressed.

68. These issues can fester owing to the failure to (a) properly vet those taking supervisory roles for their management abilities; (b) act on reported instances of managerial misconduct and to make managerial competence a critical factor when evaluating staff; and (c) put in place mechanisms that can properly assess the effective use of entrusted managerial authority, such as 360-degree managerial evaluations.

69. Abuse of authority and the failure to address this and other forms of misconduct negatively affect productivity, retention and staff morale. These behaviours can lead to high absenteeism and extended medical leave and reflect poorly on the image of the Organization.

70. Management sets the tone for an organization's work environment. It is important that managers are selected and recognized not only for their ability to deliver programmatically but also on their ability to create an organizational culture that does not tolerate harassment, discrimination or abuse by the management or others.

71. It is important that for positions with supervisory responsibilities, individuals are selected and appraised on the quality of their management skills, as well as on their technical and other abilities.

3. Investigatory processes for alleged misconduct

72. Staff members of the Secretariat and the funds and programmes raised concerns pertaining to investigatory processes related to allegations of harassment, abuse of authority and other forms of misconduct. Investigations were said to be sometimes conducted without due process. It also appeared that investigations were not always undertaken by the appropriate investigative body or by persons who had the right language proficiency.

73. Some staff perceive that their reports of misconduct are not properly addressed and that the Organization lacks serious commitment to addressing reports of abuse. Those staff report that they may not know that an investigation is taking place or they do not know its status. Some believe that there is no requirement to provide feedback to staff on the findings of reported misconduct. When staff do not hear back after lodging a complaint, they feel that justice has been denied and that managers may abuse authority with impunity. At the same time, staff may continue

to serve in offices alongside an alleged perpetrator, while fearing retaliation. Because of these experiences, some staff members do not feel that they have adequate protection against retaliation.

74. The existence of several offices available to handle concerns of misconduct raised by peacekeeping personnel in the field, namely the Conduct and Discipline Unit, the Office of Internal Oversight Services, personnel services and security services, among others, creates confusion among the staff. Standards vary among offices and there does not appear to be consistent application of the requirements, such as requiring proof to establish wrongdoing.

75. Streamlining the processes for the review and investigation of alleged misconduct will improve their effectiveness. Furthermore, reviewing all formally lodged complaints and providing feedback to the complainant will help to ensure the transparency and effectiveness of the process. Where the complainant fails to establish a prima facie case of wrongdoing, this determination needs to be on record to show that the complaint was examined and that the alleged perpetrator was exonerated. Based on a centralized database with such records, reported abuse could be detected. Closely monitoring the contractual situation and performance appraisal of the complainant will help protect him or her against retaliation during and after investigation.

4. Academic qualifications

76. Over the reporting period, the integrated Office received complaints from staff whose academic degrees were rejected by the Organization. The Office observed that an exhaustive, accurate and generally accepted list of accredited institutions against which concerned staff members can examine their credentials does not exist. There are various standards and criteria across the system on what are considered acceptable accreditations and institutions. Furthermore, the existing policy in this area predates the Internet and does not take advantage of information technology as a globally used medium for educational advancement.

77. Staff members who raised these issues note that in absence of a clear policy, they do not know if the Organization will recognize their degree or institution. In addition, some staff members reported that during the hiring process, and after they had been selected for a particular position, they were informed that their academic qualifications were appropriate only for a lower level, in which cases they were offered contracts at the lower level.

78. Failure to issue clear, informative policies on recognizable academic qualifications prevents staff in some cases from pursuing the right education to optimize their current effectiveness and future career advancement. It may also cause qualified candidates to reject the final offer if the contract they are ultimately offered is not at the level of the position for which they had applied.

79. A comprehensive system-wide policy on the subject is required. It needs to communicate to staff prior to the commencement of studies how to determine whether their degrees are accredited; it should also outline the implications for non-compliance with established requirements. Also, better coordination of the process from screening through the letter of appointment or contract will prevent many of these issues from recurring.

80. The Office also recommends that a database of accredited institutions be developed, using best practices and following system-wide consultations, to be used as a reference tool by all relevant entities that are involved in selection and recruitment processes.

81. The Ombudsman acknowledges the ongoing efforts to address some aspects of this process by human resources departments across the system.

5. Maternity leave

82. A number of female staff members going on maternity leave complained that their supervisors made them feel that their planned absence would cause reduced office productivity and was likely to jeopardize the continuity of their service in the office.

83. Failure to protect the rights of female staff members undermines an environment for career development and work against gender-balance policies.

84. Exercising one's entitlement to maternity leave should have no bearing on the continuity of one's service in an office.

85. Periodic circulation of relevant policies to managers, which could be monitored by gender focal points, will help to ensure equal opportunity for career development for female staff.

6. Staff referral for medical evaluation

86. Staff of the Secretariat and the funds and programmes report to the integrated Office that their supervisors have referred them to the Medical Services Division for psychological evaluation without their prior knowledge. Such a practice may be construed as not respecting the rights of staff.

87. It is important that appropriate guidelines be established and circulated on how to determine when psychological evaluation is appropriate and if so, how to proceed. Inappropriate handling of such sensitive situations may compromise careers and professional reputations. Additionally, supervisors and managers should be given adequate information and training on how to deal with trauma and mental health issues that could arise among their staff within the framework of United Nations rules and regulations.

7. Coverage for trauma and post-crisis care

88. A special visit was made by the United Nations Ombudsman to Geneva on the fifth anniversary of the Canal Hotel bombing in Baghdad to meet with the families of victims and survivors and hear their concerns and learn about any outstanding issues that require action from the Organization. At that time, the Ombudsman strongly urged that more attention be paid to this problem and recommended that the Organization create a mechanism that would address post-crisis and long-term needs of survivors and family members of deceased staff members. The Ombudsman had previously identified the need for care or coverage for staff who sustain psychological or mental illnesses resulting from service-related incidents (see A/62/311).

89. Not addressing these issues might be perceived as going against core United Nations values. Furthermore, failure to take proactive initiatives to address these

issues leaves the United Nations unprepared to deal with future crises of such magnitude and their aftermath.

90. The Ombudsman notes the establishment at the request of the Secretary-General of the Working Group on Staff Humanitarian Affairs following the five-year commemoration of the Baghdad bombing. The Group was set up to consider how the United Nations could respond in a more caring and consistent way in the wake of malicious attacks against the Organization. The Office provided recommendations and input to the Working Group.

91. UNOMS supports the Working Group's recommendation to establish a unit within the Organization that is dedicated to providing both the operational and the policy perspective to ongoing support for survivors and family members of deceased staff members.

C. Responses to past systemic issues

92. The Ombudsman has identified systemic issues in previous reports of the Secretary-General on the activities of the Ombudsman. It is the Secretary-General's purview to monitor and report to the General Assembly on the status of how those issues and recommendations are being addressed. Nevertheless, below are a few examples of initiatives that the Organization has taken in regard to multiple factors that help address broad systemic issues and keep them from recurring.

1. Fostering managerial excellence

93. In the report of the Secretary-General to the General Assembly at its sixtieth session on the activities of the Ombudsman (A/60/376), the Organization was called upon to provide training for managers and to make training mandatory for all staff with supervisory roles. The Organization has introduced management development courses, including a leadership programme for staff of the D-1 level and above, and mandatory management development programmes for staff at the P-4 and P-5 levels. An induction programme for senior officials in the field has also been recently revamped. The Secretariat has regularly participated in the programme.

2. Communicating and managing change

94. In the report of the Secretary-General to the General Assembly at its sixty-first session on the activities of the Ombudsman (A/61/524) the need for proper management of change and transition affecting staff was identified. Over the reporting period, the Office noted a reduction in the number of cases from the Secretariat arising out of poor change management. The Management Support Service was established in the Department of Management to guide managers on how to execute change effectively. Through town-hall meetings, departments of the Secretariat have regularly kept staff informed about planned changes in human resource and justice reform.

3. National competitive examination programme

95. In the report of the Secretary-General to the General Assembly at its sixty-third session on the activities of the Ombudsman (A/63/283), several issues pertaining to the poor management of the national competitive examination programme were highlighted. The Office of Human Resources Management has suspended the programme to allow for a complete revamping of its terms and procedures.

4. Harmonization of contracts

96. In the report of the Secretary-General to the General Assembly at its sixtieth session on the activities of the Ombudsman (A/60/376), the Organization was called upon to consider streamlining the various contractual arrangements that were used for the recruitment of staff. The Assembly, in its resolution 63/250, approved a new framework that streamlines the contractual arrangements within the Secretariat and provides for three types of appointment under one set of Staff Rules. This new framework was implemented effective 1 July 2009. The harmonization of contracts has affected staff across the integrated Office. Similar areas of critical importance to all three entities serviced by the integrated Office will be reflected and elaborated upon in subsequent reports.

V. Communication and outreach

97. Communication and outreach to staff internally and to stakeholders outside the Organization remains a key function of the integrated Office. The year 2008 was one of transition and thus the Office, while focusing on consolidating its outreach and communications efforts, also explored ways of adapting its communication strategy and tools to the needs of the new integrated Office.

A. United Nations employees

98. It is critical that every United Nations employee understand that the Organization places great emphasis on the informal resolution of conflicts and that, in particular, UNOMS can be an important first step in this regard. The integrated Office increased its efforts to emphasize to staff the value of confidential, off-the-record conversations with a neutral person about workplace concerns. Apart from outreach activities, UNOMS also placed special focus on raising awareness about its expanded mandate, as noted below.

1. Induction

99. To ensure that all new staff are informed about the role and activities of the integrated Office, Ombudsman staff regularly participated in a variety of training courses, such as induction courses. In addition, and at regular intervals, representatives of the integrated Office met with various groups of staff, both in headquarters and during field visits, to reinforce awareness about the mandate of the Office and the services it provides, while emphasizing the advantages of the informal dispute-resolution process. Outreach efforts in the coming year will continue to focus on town hall meetings with staff.

2. Local visits

100. Field visits to offices away from headquarters continued to constitute an effective outreach tool. The criteria used to prioritize the visits were the number of cases brought by staff from those duty stations, organizational risk level of cases and special requests for in-person interventions made by staff or management. During these visits, UNOMS provides many services, for example presentations to staff about the role of the Office, providing induction training, handling cases brought by local staff and meeting with key stakeholders to discuss issues and trends.

101. In 2008, the United Nations Ombudsman and his staff visited the United Nations offices at Vienna, Geneva and Nairobi and other small locations not identified for confidentiality purposes. They also visited UNOCI, UNMIT and UNMIK. The Ombudsperson for the funds and programmes conducted a total of five country office missions during the reporting period, covering three regions, while the UNHCR Ombudsman conducted four visits. In September 2008, the United Nations Ombudsman and the funds and programmes Ombudsperson made a joint visit to Nairobi. The integrated Office will enable joint visits where feasible.

102. Such local, on-site visits proved an effective tool for a quick and durable resolution of complex cases that required in-person intervention and at the same time also prevented, at an early stage, the escalation of conflicts. On many occasions, senior staff of the respective duty stations used such field visits by the Office to raise issues of concern and to seek advice and coaching on how to address them. Early conflict resolution resulted in avoidance of more costly forms of resolution. The Office of the Ombudsman noted that in-person visits helped to build credibility and trust in the informal conflict resolution system.

3. New communications strategy

103. In an effort to adapt communication plans to the new integrated Office, a comprehensive assessment of the existing communication strategies and their tools was conducted. The result of this assessment was the development of a new, harmonized communication strategy that would cover the integrated Office. The integrated Office agreed that a cornerstone of the strategy would be a new website with a new visual design and content that is relevant to United Nations staff at large. The website will contain detailed information about the new Mediation Division and its linkage with the formal side of the new justice system. In cooperation with the Department of Public Information, the English version of the website was prepared in 2008. The final version of the website will be launched in all six official languages of the United Nations in 2009 with the start of the new administration of justice system. It meets all accessibility requirements as laid out by the General Assembly. The new website will also serve as a starting point for the production of a range of new printed and electronic materials.

B. Other stakeholders within and outside the United Nations system

104. Continued cooperation and involvement with fellow ombudsman practitioners enables the integrated Office to share experiences and learn from best practices. Meetings of the ombudsmen and mediators of the United Nations system and related organizations provide one such forum. Through candid exchange of ideas and experience, they help ombudsmen and mediators apply professional standards to their common goal of fostering respect and dignity in the workplace.

105. The integrated Office representatives attended the seventh annual meeting of the ombudsmen and mediators of the United Nations system and related organizations, in July 2008. The participants discussed best practices and strategies on topics such as harmonizing case reporting categories and databases, building effective relationships with management and staff associations, communicating the role of the ombudsman function, creating conflict resolution systems, outlining the role of the ombudsman in change management and best practices for succession planning for ombudsmen. The meeting provided key learning points and an action plan was created to produce deliverables for the eighth annual meeting. In addition, quarterly meetings of Europe-based ombudsmen and mediators, held in Geneva, served as an effective forum for peer learning and information exchange.

106. The International Ombudsman Association provides another forum for the exchange of ideas with ombudsmen from the corporate, educational, non-profit and governmental sectors. The mission of the Association is to support and advance the global organizational ombudsman profession and ensure that practitioners work to the highest professional standards. The practices and procedures of the Office of the Ombudsman are based on the Standards of Practice and Code of Ethics of the Association. During 2008, United Nations ombudsmen attended the annual conference of the Association and participated in workshops and advanced training events where they shared best practices and acquired additional competencies.

C. Building conflict competence

107. The integrated Office increasingly seeks to focus its joint efforts with relevant stakeholders on strengthening the capacity of staff at all levels to deal with conflict. To that end, the UNHCR Ombudsman introduced two beneficial practices in 2008, which consisted of preliminary discussions with relevant stakeholders, aiming on the one hand to institute conflict management and resolution training in management and other learning programmes, and on the other to spearhead efforts to move UNHCR forward in the direction of building conflict-resolution competence (see also para. 115 below). The integrated Office will explore how these best practices could be emulated by other entities, taking into account courses already being offered by the Office of Human Resources Management in the Secretariat and other such programmes that may be available in the funds and programmes and across the United Nations system.

VI. Future directions

108. The following is an update on some issues identified in the previous report of the Secretary-General on the activities of the Ombudsman (A/63/283) under the section on future directions.

A. Consistency in practices and principles within the expanded decentralized structure

109. Concerted efforts will continue during 2009 to ensure consistency in practices and principles within the integrated Office. These include the development of an internal Ombudsman Practices Manual, which will constitute a useful tool for all ombudsmen serving at headquarters and the regional branch offices, the dissemination of the revised terms of reference for the integrated Office, the standard operating procedures for the Mediation Division and the development of a common case information form and integrated case database system. The data collection process will help to ensure consistency in interpreting trends and non-confidential demographics of staff using the services of the Office. Consistent data will enable improved analysis of root causes and trends. The new categorization schema for cases is based on those used by the International Ombudsman Association and the group of Ombudsmen and Mediators of United Nations and Related International Organizations.

110. The integrated Office will focus on building conflict management capability through learning activities for managers and for teams and where the programme is piloted, through selecting, training and strengthening, the Respectful Workplace Advisers in field offices, including in remote regions (see para. 25 above).

111. Furthermore, during 2009, the integrated Office is planning a second retreat that will include staff from the regional branch offices and the Mediation Division. The retreat will focus on continuing team building, enhancing cross-training, building competency and ensuring consistency in practices and operational efficiency. The Office is committed to effectively fulfilling its informal role in the administration of justice and operating by its principles of independence, informality, neutrality and confidentiality.

B. Process involving all stakeholders in identifying and addressing systemic issues

112. The identification of systemic issues is an integral part of the Ombudsman's mandate. The UNHCR Ombudsman is part of an informal group, as mentioned earlier in the present report, that meets periodically to identify trends affecting staff of UNHCR and share these trends with key interlocutors. Building on the UNHCR experience, the integrated Office is developing a forum of key stakeholders from all constituent entities to collaborate in further analysing the issues identified, making recommendations and setting up modalities to address and resolve them. This forum will share best practices among the entities served and encourage their increased application to attain consistent and more effective approaches to resolving issues.

113. The key stakeholder forum will pilot joint discussions among Ombudsmen and key stakeholders within entities served by the Office to identify and prioritize high-risk systemic and policy issues and promote potential corrective actions. Stakeholders can consult with the Office to garner further understanding of the issues that are identified by the Office and can explore recommendations identified by the Ombudsman and other participants.

114. In its resolution 63/253, the General Assembly requested the Secretary-General to report to it at its sixty-fifth session on specific measures taken to address systemic issues in the context of human resources management. The Office recommends that this process continue annually in response to all issues flagged by the Office to allow management and relevant departments to initiate the necessary measures to respond to systemic concerns.

C. Mediation

115. While mediation is voluntary, it would be essential to encourage managers to participate in good faith in mediation requested by staff members through appropriate communication or guidelines, recognizing that the parties would remain free to reach an agreement or not. This will help enhance the Mediation Division's impact and effectiveness.